

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

ALTON SHARAN SAPP,

Plaintiff,

v.

DISTRICT ATTORNEY’S OFFICE FOR
THE AUGUSTA JUDICIAL CIRCUIT;
BURKE COUNTY DISTRICT
ATTORNEY’S OFFICE; COUNTY OF
BURKE, STATE OF GEORGIA; and
JARED T. WILLIAMS, District Attorney,

Defendants.

CV 122-078

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff is proceeding *pro se* and requested permission to proceed *in forma pauperis* (“IFP”). On July 13, 2022, the Court denied Plaintiff’s IFP motion without prejudice and directed him to submit an updated IFP motion containing accurate and complete financial information. (Doc. no. 5.) Plaintiff then submitted a second IFP motion using an AO 240 short form rather than the form the Court instructed him to complete and included with its July 13th Order. (See doc. nos. 5, 8.) On August 8, 2022, the Court explained to Plaintiff his second IFP motion did not contain adequate details about his expenses and income that the Court requested in its July 13th Order, (see doc. no. 5, p. 3), and the Court again denied Plaintiff’s IFP motion and directed him to submit a third IFP motion on Form AO 239, (doc.

no. 13.) The time to respond has passed, and Plaintiff has not submitted an updated IFP motion.

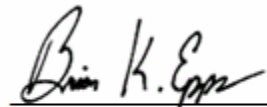
A district court has authority to manage its docket to expeditiously resolve cases, and this authority includes the power to dismiss a case for failure to prosecute or failure to comply with a court order. Equity Lifestyle Props., Inc. v. Fla. Mowing & Landscape Serv., Inc., 556 F.3d 1232, 1240 (11th Cir. 2009) (citing Fed. R. Civ. P. 41(b)); see also Eades v. Ala. Dep't of Human Res., 298 F. App'x 862, 863 (11th Cir. 2008) ("District courts possess the ability to dismiss a case . . . for want of prosecution based on two possible sources of authority: Fed. R. Civ. P. 41(b) or their inherent authority to manage their dockets."). Moreover, the Local Rules of the Southern District of Georgia dictate that an "assigned Judge may, after notice to counsel of record, *sua sponte* . . . dismiss any action for want of prosecution, with or without prejudice . . . [for] [w]illful disobedience or neglect of any order of the Court; or [a]ny other failure to prosecute a civil action with reasonable promptness." Loc. R. 41.1 (b) & (c). Finally, dismissal without prejudice is generally appropriate pursuant to Rule 41(b) where a plaintiff has failed to comply with a court's order. Owens v. Pinellas Cty. Sheriff's Dep't, 331 F. App'x 654, 655 (11th Cir. 2009) (holding a district court may *sua sponte* dismiss a plaintiff's action without prejudice for failure to comply with the rules or any order of the court).

Here, Plaintiff's repeated failure to file an updated IFP motion or even to provide the Court with an explanation for his failure to comply with the July 13th and August 8th Orders amounts not only to a failure to prosecute, but also an abandonment of his case. Rather, Plaintiff has opted to pursue multiple frivolous motions for default judgment in total disregard for this Court's Orders and the rules all litigants, even *pro se* ones, must follow when filing in federal court. See Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989) ("[O]nce a pro se IFP litigant

is in court, he is subject to the relevant law and rules of court”). This is precisely the type of neglect contemplated by the Federal and Local Rules. Because Plaintiff requested permission to proceed IFP, the Court finds that the imposition of monetary sanctions is not a feasible sanction. Thus, dismissing this case without prejudice is appropriate.

In sum, the time to respond has passed, and Plaintiff has not submitted an updated IFP motion as required by the Court’s July 13th and August 8th Orders. Therefore, the Court **REPORTS** and **RECOMMENDS** this case be **DISMISSED** without prejudice and that this civil action be **CLOSED**.

SO REPORTED and RECOMMENDED this 8th day of September, 2022, at Augusta, Georgia.



BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA